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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,565	09/20/2001	Thomas M. Gross	1291.01	1382

21901 7590 07/15/2003

SMITH & HOPEN PA  
15950 BAY VISTA DRIVE  
SUITE 220  
CLEARWATER, FL 33760

EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)
09/682,565	6ROSS et al.
Examiner M. VARGAS	Group Art Unit 1732

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

Responsive to communication(s) filed on \_\_\_\_\_

This action is FINAL.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-4 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-4 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All  Some\*  None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

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1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in that it does not set forth actually positioning the toric back mold on the gasket. As it stands, all applicant has recited is providing and dimensioning the carrier ring and positioning the ring on the second flat step of the gasket--there is no placement of the back mold nor that such is attached to the carrier ring, and hence it is unclear how the back mold participates in forming the cavity.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiterman in

view of the admitted prior art as shown in instant Figure 1.

Reiterman discloses the basic claimed method of making toric lenses by providing a carrier ring (18) around the back toric mold (11--see column 2, lines 47-54) which fits into an annular groove (25) in the gasket (13), the groove providing the second flat step into which the carrier ring fits. Essentially, the primary reference lacks a clear disclosure of the gasket having a first flat step onto which the front mold fits. However, the admitted prior art as shown in instant Figure 1 shows that such is purely conventional in the art, as one of ordinary skill knows. It would have been

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obvious to one of ordinary skill to have modified the gasket of Reiterman as taught by the admitted prior art of instant Figure 1 so that the front mold would squarely fit on the gasket rather than rest on top of the projections. In other words, it is submitted that the instant invention is essentially shown in Reiterman and that modification of the gasket in the primary reference to have a flat step into which the peripheral edge of the front mold fits constitutes an obvious change.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Vargot whose telephone number is 703 308-2621.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

M. Vargot

July 11, 2003

*M. Vargot*  
MATHIEU D. VARGOT  
PRIMARY EXAMINER  
GROUP 1300

7/11/03